

### IN-LAW/ACCESSORY APARTMENTS.

By Special Exception “in-law/accessory apartments” are allowed within, or as an addition to, existing residential single family structures. Mobile home units and manufactured housing units less than 1600 square feet, residential duplexes, townhouses or R-1, R-2, and/or R-4 residential apartments/groups, all are excluded from this section. In addition “In-law/accessory apartments” are not allowed within industrial, commercial and/or business type uses or buildings.

An “In-law/accessory apartment” special exception shall be granted by the Zoning Board of Adjustment, only upon finding by this Board that it meets the provisions and conditions of this section.

- A. The applicant, seeking an in-law/accessory apartment shall make application to the Zoning Board of Adjustment.
- B. The property must conform to the dimensional requirements of the single family minimum lot size standard as established by Fremont Zoning Ordinance in 1971 (Lot size of 1 acres minimum is required), and the single family dwelling shall have been constructed and occupied for a period of a minimum of one year.
- C. The dwelling to which the in-law/accessory apartment is being created must be owner occupied and be of greater than 1200 square feet of total existing living space.
- D. The living area of the in-law/accessory apartment shall be a minimum of 400 square feet and a maximum of 800 square feet. Size shall be determined by the total square footage of the in-law/accessory apartment. The initial family unit may not be lessened by such dimensions so as to create non-compliance with Article V Section 2.
- E. No more than two bedrooms are permitted in the in-law/accessory apartment.
- F. The owner shall provide evidence to the Building Official that septic facilities are adequate to service the in-law/accessory apartment. Such evidence shall be in the form of certification by State of N.H. licensed septic system designer. The Building Official shall indicate his/her approval in writing to the Zoning Board of Adjustment as to proper certification having been received.
- G. The in-law/accessory apartment shall be designed such that the appearance of the building remains that of the single family dwelling. Any new entrances shall be located on the side or rear of the building and shall be at ground level.

- H. All in-law/accessory apartments shall have accessible entrances and shall conform to dwelling unit Type-B construction, as specified in the International Residential Code (IRC).
- I. The primary residence and the in-law/accessory apartment must share common water, septic, and electric facilities.
- J. In no case shall more than one in-law/accessory apartment be permitted within the structure. Dormitory-type facilities and living are expressly prohibited whether seasonal or otherwise.
- K. In-law/accessory apartment shall not be constructed or established within any accessory use structure (such as a garage). Only the primary residential structure may contain the in-law/accessory apartment.
- L. Off-street parking must be available for a minimum of four automobiles for the entire structure. In no case shall an in-law apartment be permitted to have a separate driveway or separate garage to accommodate its occupant(s).
- M. All in-law/accessory apartments shall be provided with an interconnected smoke alarm system. All smoke alarms shall be listed and installed in accordance with the provisions of the IRC and the household fire warning provisions of NFPA 72.
- N. The provisions of the International Residential Code (IRC) shall apply to all construction elements of the in-law/accessory apartment. There shall be no occupancy of the in-law/accessory apartment until the Building Official has issued an occupancy permit.
- O. No in-law/accessory apartments shall be allowed within the Flood Plain as identified by the FIRM map relating to Fremont, N.H.

Upon receiving approval from the Zoning Board of Appeals and prior to receiving a building permit, the applicant shall demonstrate to the authorized official that the applicant has recorded the special exception decision with Rockingham Registry, indexed under the name of the property owner. Any special exception granted under this Section shall contain a provision which states as follows: "Upon the cessation of occupancy by an immediate family member, the owner hereby acknowledges and purchasers are put on notice, that the in-law/apartment is to be used only by immediate family members and no others, and that no variances from this provision shall be obtained permitting any other use".

Variances to this special exception may not be granted.

The following definitions shall pertain to this section:

**In-law/accessory apartment** – An apartment within a single family residence. An in-law apartment is defined as "a separate living space within a single family dwelling unit

consisting of separate sleeping, cooking and bathroom facilities and which is intended to be occupied by an in-law or in-laws of a member of a family unit occupying the main part of the dwelling.” and meeting the following criteria:

In-law apartments may be occupied only by members of the family unit occupying the main part of the dwelling or by in-laws of a member of said family unit. The applicant must satisfactorily demonstrate that said apartment will be utilized only in this fashion. The occupancy or rental of an in-law apartment by persons other than in-laws, as defined in this ordinance, is expressly prohibited.

**R-1/R-2/R-4** – Residential occupancy groups as defined by the International Residential Code.

**DWELLING UNIT, TYPE B.** - A dwelling unit designed and constructed for accessibility in accordance with ICC/ANSI A117.1, intended to be consistent with the technical requirements of fair housing required by federal law.